

State of Alaska FY2011 Governor's Operating Budget

Department of Law

Department of Law

Mission

The mission of the Alaska Department of Law is to prosecute crime and provide legal services to state government for the protection and benefit of Alaska's citizens.

Core Services

- Protecting the Safety and Physical and Financial Well-being of Alaskans
- Fostering the Conditions for Economic Opportunity and Responsible Development and Use of Our Natural Resources
- Protecting the Fiscal Integrity of the State
- Promoting and Defending Good Governance

Prioritization of Agency Programs

(Statutory Reference AS 37.07.050(a)(13))

| DEPARTMENT PRIORITY PROGRAMS | GF | FED | OTH | TOTAL | PFT | PPT | NP | % GF |
|---|-----------------|----------------|-----------------|-----------------|------------|----------|----------|-------|
| Protecting Alaskans | 33,762.5 | 3,782.0 | 10,358.1 | 47,902.6 | 374 | 6 | 0 | 60.0% |
| Economic Opportunity and Resource Development | 3,807.1 | 33.1 | 3,398.0 | 7,238.2 | 43 | 0 | 0 | 6.8% |
| State Fiscal Protection | 14,835.4 | 33.1 | 7,221.6 | 22,090.1 | 90 | 1 | 0 | 26.4% |
| Governance | 3,870.3 | 33.1 | 4,223.3 | 8,126.7 | 46 | 0 | 0 | 6.9% |
| FY2010 MANAGEMENT PLAN | 56,275.3 | 3,881.3 | 25,201.0 | 85,357.6 | 553 | 7 | 0 | |

The Attorney General is the state's chief law enforcement officer, overseeing the state's involvement in all civil matters and criminal prosecutions, and leading over 550 attorneys and staff in the Department of Law's thirteen offices throughout the state. The Attorney General serves as chairman of the Governor's Rural Action Subcabinet, co-chair of the Alaska Rural Justice and Law Enforcement Commission, co-chair with the Chief Justice of the Alaska Supreme Court of the Alaska Criminal Justice Working Group, and trustee on the Exxon Valdez Oil Spill Trustee Council. He and the Department of Law are also key members of Alaska's gas line team.

The Criminal Division seeks to ensure safe and healthy communities by prosecuting and convicting those who violate the state's criminal law, by upholding those convictions on appeal, and by providing legal services supporting the efforts of criminal justice agencies.

The Civil Division defends and prosecutes civil litigation to which the state is a party; handles legal matters for and provides legal advice to the governor, executive branch agencies, and – upon request – the legislative and judicial branches; reviews regulations prepared by executive agencies; drafts legislation for introduction by the governor; and reviews all legislation before it is acted upon by the governor.

Protecting the Safety and Physical and Financial Well Being of Alaskans includes prosecuting violations of criminal law, carrying out the state's child protection statutes, enforcing consumer protection laws, and serving as the public advocate in regulatory proceedings.

Fostering the Conditions for Economic Opportunity and Responsible Development and Use of Our Natural Resources entails participating in administrative and legal proceedings to diminish barriers to the state's economic growth and development of the state's natural resources.

Protecting the Fiscal Integrity of the State involves engaging in civil litigation to recoup moneys owed to the state in the forms of royalties, tariffs, or, when the state has suffered financial injury due to negligence or breach of contract, legal damages, as well as defending the state's system of taxes, royalties, and tariffs.

Promoting and Defending Good Governance entails handling legal matters for and providing legal advice to the

governor, executive branch agencies, and, when requested, the legislative and judicial branches, reviewing regulations proposed by executive branch agencies, drafting legislation for the governor to put forward, and reviewing legislation before it is acted upon by the governor.

Priority Programs - Key Performance Indicators

(Additional performance information is available on the web at <http://omb.alaska.gov/results>.)

Protecting Alaskans

- ↑ 43% of crimes of sexual abuse of children were resolved with a felony conviction, as compared to 41% the previous year.
- ↑ In FY 2009, the amount (\$2.7 million) in total restitution collections increased over 35% compared to the amount collected in FY 2008.
- ↑ The number of consumer protection investigations and prosecutions increased 41% in FY 2009 over the prior fiscal year, resulting in civil penalties, attorney's fees and costs in the amount of \$2.3 million.
- 11% of violent felony crimes accepted for prosecution were resolved with a conviction that was not reduced to a lower level felony, remaining unchanged from the previous year.
- ↑ The number of paralegal assistants who have been provided yearly training in general victim-related issues grew to 33 in FY 2009, an increase of 3 over the prior year and continuing a positive trend.

Economic Opportunity and Resource Development

- ↑ The Department successfully defended the permits for the operation of the Kensington Mine before the U.S. Supreme Court, preserving hundreds of jobs.
- ↑ The State participated in 100% of cases involving mineral development and exploration permitting decisions in 2009, compared to participation only on the Kensington Mine and Cook Inlet coal prospect cases in the previous year.

State Fiscal Protection

- ↑ The State prevailed at the Federal Energy Regulatory Commission hearing on the TAPS tariff. The case is presently on appeal before the US Court of Appeals for the DC Circuit.
- ↑ Settlements and awards from cases related to oil and gas taxes and royalties generated \$530.0 million for the State.

Governance

- ↑ The ethics attorney conducted nine ethics trainings in FY 2009 compared to none in FY 2008, and six in FY 2007.
- ↑ None of the ballot initiatives certified by the Lieutenant Governor on recommendation of the Department of Law were challenged in FY 2009. In FY 2008, the State faced three challenges to ballot initiatives certified on recommendation of the Department, and defeated each challenge.

Key Department Challenges

A. Protecting the Safety and Physical and Financial Well Being of Alaskans

1. Prosecutor Caseload. The large case load each prosecutor carries is a statewide challenge. In some communities the average case load is over 500 cases per attorney, with the highest being 844 cases. The number of prosecutors statewide is fewer than the number of judicial officers. On average, prosecutors are outnumbered 1.2 to 1 by judges and magistrates. At times prosecutors cannot cover all the courts in session at

one time. For example, Juneau has three prosecutors appearing before two superior court judges, two magistrates and one district court judge. In the three DA offices that have only one attorney, there is a superior court judge and a magistrate in each community; a two to one ratio. The Department's long-term goal is to have parity with prosecutors and Public Defenders in all communities.

2. Increased Crime. Three of the four largest DA offices have had significant increases in caseloads. In the first quarter of FY 2010, Anchorage has had an increase of 31.4% in felonies, Fairbanks has had a 14.6% increase in felonies, and Kenai has had a 46.2% increase in felonies. Only Palmer saw a decrease in the number of felony cases at -9.2%. If the number of cases continues to increase at the current rate, in FY 2010 there will be a 19.4% increase in felonies and a 7.0% increase in misdemeanors statewide.
3. Sexual Assault in Rural Areas. The Bethel District Attorney's Office presently has 6 attorneys and serves 56 villages, in an area that is larger than many states. Not only does this office face geographic challenges, but it has a greatly elevated rate of sexual assault cases, which are the most time-consuming, complicated, and emotionally draining for prosecutors as well as victims and families. According to *Crimes in the United States 2008*, the annual FBI compilation of crime statistics, Alaska has a rate of sexual assault over twice the national average. Almost half of these sexual assaults are handled by the C Detachment Division of the Alaska State Troopers located in Bethel. In 2005, the number of reported rapes in Bethel (population 6,468) was the same as in Anchorage (population 279,243).
4. Child Protection in Kenai. The one Assistant Attorney General located in Kenai currently carries a child protection caseload of 170 children. Federal guidelines suggest a caseload of no more than 100 per attorney. In addition there are up to 40 children's cases in Homer that logically should be handled out of Kenai, but instead are handled out of Anchorage as a stopgap measure to alleviate the heavy caseload in Kenai.
5. H1N1. The Department continues to see increased demand for advice to the Division of Public Health as a result of a greater focus on public health issues such as planning for the H1N1 pandemic flu and disaster preparedness.

B. Fostering the Conditions for Economic Opportunity and Responsible Development and Use of Our Natural Resources

1. Endangered Species Act (ESA). The Department of Law anticipates ESA-related legal work to significantly increase over the next three years. This increase will occur due to recent listing decisions and designation of critical habitat for species occurring in Alaska. Adverse ESA decisions would adversely affect the State's ability to develop and manage Alaska resources. The Department, in tandem with outside counsel, currently represents the state in challenging the threatened listing of the polar bear. It is also reviewing legal options in response to federal authorities' decision to list the beluga whale in Cook Inlet as endangered. ESA litigation requires review of extensive administrative records. For example, the administrative record in the polar bear listing case includes over 850,000 documents.

In addition, many species may be proposed for listing in the near future. There are at least nine additional animal species that either are candidates for listing, have been the subject of third-party petitions for listing, or were denied listing but may be the subject of suits challenging those denials. Other petitions based on climate change and sea ice recession can be expected along with the pending petitions for listing the pacific walrus, bearded seal, and ringed seal. NMFS recently declined to list the spotted seal, but an environmental group has indicated its intent to sue, challenging that decision. This case may also require intervention by the state.

The Department's work on ESA issues is not only litigation related. The state is active in submitting official comments throughout the listing process and designation of critical habitat. Recovery plans will soon begin for newly listed species and will be periodically revised for those already listed, allowing additional opportunities for formal comments. For example, the state submitted comments for the 2008 Steller Sea Lion Recovery Plan. Under the ESA, habitat conservation plans together with incidental take permits present an option to allow development and other activities that may impact listed species, or species that may later be listed, to proceed. Considering this option where appropriate will require additional legal resources because the process is time intensive.

Whenever an action or project may affect a listed species and requires a federal permit or federal funding, that effect of the project on the species must be evaluated through a "consultation process" provided for in Section 7 of the ESA. With the increase in listed species, there will be an increase in consultations required for resource

development and infrastructure projects. The state will need to increase legal capacity to participate where possible in these consultations and to address the outcomes.

Increased legal capacity is needed to allow state involvement in ESA-related litigation to continue and expand proactive involvement in the rulemaking and comment stage of listing petitions, the designation of critical habitat, the habitat conservation plan process, recovery plans and habitat conservation plans by the state.

2. Alaska Gasline Inducement Act. The Department of Law is assisting in the State's implementation of the Alaska Gasline Inducement Act (AGIA). The purpose of AGIA is to facilitate the construction of a gas pipeline to transport Alaska's North Slope gas to markets. This assistance will require a high level of expertise in legal issues relevant to the gas line and will be document-intensive.

C. Protecting the Fiscal Integrity of the State

1. Strategic Reconfiguration (SR). In 2004 the Trans-Alaska Pipeline System (TAPS) owners approved a \$242 million capital construction project to replace and update TAPS facilities. The project was to be completed within 18 months, and the proponents noted that time was of the essence. It is now almost 60 months later and only three of the four pump stations being upgraded have been completed. Hundreds of millions of dollars have been spent. The state has protested the inclusion of the SR costs in the tariff rate base. Unlike the economic issues that are the standard fare of tariff rate litigation, this prudence case will rely on engineering expert testimony in the areas of pipeline design, project scheduling, and industry standards for capital investment. We expect that before the end of 2009 the SR litigation will be set for a 6 to 8 week hearing beginning at the end of 2010.
2. Trans-Alaska Pipeline System 2008 and 2009 Forward rate protests. Each of the five TAPS owners filed compliance rates of \$3.45 per barrel of oil flowing through the pipeline to adjust their 2008 rates to conform with Order 502. The three major TAPS owners (BPPA, ConocoPhillips, and ExxonMobil) have each filed new rates effective summer of 2009 going forward. The State has protested all of those rates.
3. BP Corrosion. Pending litigation seeks penalties and lost tax and royalty revenues potentially exceeding \$1 billion for the 2006 Prudhoe Bay pipeline spills and production shutdowns. The complaint filed by the state in Superior Court on March 31, 2009, seeks recovery of lost revenues for 2006-08 due to curtailments of oil production stemming from BPXA's negligent practices resulting in corrosion. Also at stake is BPXA's ability to recoup pipeline replacement costs from the working interest owners who can decline to pay if the expenses resulted from gross negligence. This litigation will be extremely document-intensive and will require the Department to devote substantial resources in order to prevail.

FY 2011 is a critical year for the litigation with a jury trial scheduled to commence in September 2011. The bulk of the discovery and pre-trial work will occur in FY 2011 under the pretrial order entered by Judge Michalski in August, 2009.

This is an electronic document intensive case. We have collected over 175,000 pages of documents from state employees which require privileged review. The case also requires a number of experts to address pipeline corrosion, oil field management, oil production mechanisms, reservoir issues, and economic loss calculations.

4. Cruise Ship Litigation. The State has been sued with respect to the excise tax put in place through a citizens' initiative.
5. Mercer. The Department has filed a large actuarial malpractice case seeking damages in excess of \$1 billion to the state pension system for an actuary's negligence and fraud.

D. Promoting and Defending Good Governance

1. Public Records. Public records requests and discovery obligations, particularly those involving electronic records, have increased exponentially over the last two years. Eleven records requests are currently outstanding. These requests range in size from 1,000 to 180,000 records. The process of reviewing records is time-consuming, requiring several steps to eliminate non-responsive documents, identify privileged information, and redact information. In FY 2009 the Department expended over \$500,000 in unbudgeted time to review such documents. The Department also advises the Governor's Office and agencies regarding retention and production requirements and represents the state in proceedings related to document retention and production.

2. **Indian Law.** The Department is facing a recent influx of new work related to Indian Law. The existing caseload includes responding to inquiries by executive branch agencies on such diverse topics as tax, licensing, tribal employment rights, grants and general liability issues. Recent events have greatly increased the overall workload. A primary driver of the new work is federal legislation creating new tribal transportation and human resources programs in Alaska such as the Indian Reservation Roads program, Tribal IV-D child support programs, changes in the Uniform Interstate Family Support Act (UIFSA) related to tribes, the pending Tribal Law and Order Act of 2009 and proposed Alaska specific "pilot program" amendments to those acts. These new or proposed programs raise unresolved jurisdictional questions, some of which are time sensitive and require additional legal resources.

A secondary driver for new Indian law work is the Attorney General's role in pursuing active outreach via his position as Chair of the Rural Action Subcabinet (formed in December, 2008). The proposed agenda for this rural subcabinet includes exploration of ideas such as education initiatives, transportation improvements, extra law enforcement (VPSO program), and training centers. The state also recently agreed to participate in a Joint Federal-State-Tribal Transportation Task Force (this will also entail ongoing involvement in various working groups, some of which are specific to contract drafting and legal issues), and the state continues to be involved in the Alaska Rural Justice and Law Enforcement Commission. Ongoing formal and informal dialogue with the tribal community is anticipated in these and other forums. The Department will work closely with the Governor's Washington D.C. staff to develop a comprehensive policy for interaction with the federal government and Alaska's 229 tribes and regional for-profit and non-profit corporations.

E. Delivering Legal Services Efficiently into the Future

1. **Staffing.** The Department of Law employs some of the most talented attorneys in the state, but below-market salaries pose a challenge to maintaining this high level of performance. Some of the Department's most experienced attorneys will be eligible for retirement in the near future. Additionally, in some highly technical areas of practice (such as oil and gas, utilities and transactional work) or in instances where the Department needs seasoned trial attorneys, competition for attorneys with the requisite experience is fierce. The Department is implementing a comprehensive recruiting strategy with the active involvement of the Attorney General who personally interviews all candidates for Attorney positions. However, ensuring that Departmental salaries are competitive with salaries from the private sector will be essential to recruiting and retaining the best attorneys. Attorneys are paid according to the current statutorily mandated pay scale used for all partially exempt positions. We believe a comprehensive solution needs to be found to lessen the salary gap between the Department of Law and other public- and private-sector attorney positions.
2. **Technology.** The Department continues the multi-year several-tiered project to enhance the organization and efficiency of legal work in the Civil Division through the use of technology. In the spring of 2005, a consultant was hired to review off-the-shelf applications that are available to the legal community to improve timekeeping and billing in the civil division, provide case management and document management, and potentially replace or unify the beleaguered collections and restitution databases. The consultant recommended the implementation of ProLaw to provide a unified solution. Phase I of the project is complete and a new timekeeping system has been deployed. Integration of the document management system is underway. In addition to the implementation of this major case management system, the Department has added numerous ancillary discovery and document management systems over the last few years that are necessary to effectively and efficiently keep pace with the court's technology and the current methods of litigation. While these systems all combine to provide the resources the Department needs to meet the ever- growing external demands for information, more staff must become proficient with these systems.

The Criminal Division's case management system, CRIMES, was implemented ten years ago and needs to be upgraded. The Case Management System has reached a critical point as both the software and hardware have become seriously out of date. After a review of the Pro Law case management system, the Division decided to upgrade CRIMES in part because of needed functionality not available in Pro Law. The Department received \$200,000 to upgrade the software as well as migrate it from Oracle to Microsoft SQL and replace the existing servers that are over eight years old. Although the servers have been replaced, staff turnover and software upgrades have delayed the project. Software testing should be completed in the first quarter of 2010. We anticipate deployment of the new system by the end of the calendar year.

Significant Changes in Results to be Delivered in FY2011

Hiring a sexual assault prevention coordinator within the Department of Law will facilitate coordination of state, federal, tribal and non-profit programs addressing domestic violence and sexual assault.

Increased legal capacity will not only continue but expand the State's ability to protect its twin interests in protecting species and responsibly developing its natural resources by participating in administrative and legal proceedings related to the Endangered Species Act.

Major Department Accomplishments in 2009

A. Protecting the Safety and Physical and Financial Well Being of Alaskans

1. Criminal Prosecutions. Total number of prosecutions and convictions (year to date):

| | |
|--|---------|
| Total felony cases accepted for prosecution: | 5,365 |
| Total felony cases convicted of felony offense: | 1,866 |
| Total felony cases convicted of misdemeanor offense: | 1,709 |
| Total misdemeanor cases accepted for prosecution: | 20,992 |
| Total misdemeanor cases convictions: | 14,709 |
| Total criminal appeals defended: | 468 |

2. State wins Osborne in U.S. Supreme Court. The United States Supreme Court ruled in Alaska's favor in *District Attorney's Office v. Osborne*, ruling that there is no federal constitutional right to post-conviction DNA testing. The majority ruled that the decision whether to allow post-conviction DNA testing is best left for states. A concurring opinion also stated that a defendant who, like Osborne, has not claimed innocence (Osborne had admitted under oath that he was guilty of the rape, assault, and kidnapping of which he was convicted), is not entitled to post-conviction DNA testing. The Court's decision also cut off the many challenges to other jurisdictions' post-conviction DNA testing statutes that would have been brought, had the Ninth Circuit's decision stood.
3. Child Protection. The value of the services provided by the Department in protecting Alaska's children cannot be measured in dollars, but rather quantified only through numbers of children placed into better home situations. The Department participated in 2,526 matters where the welfare of a child was at issue. The Alaska Supreme Court issued decisions in 19 appeals involving termination of parental rights. The court affirmed the decision to terminate parental rights in all 19 cases.
4. Child Support. The child support unit in the Department of Law is vital to the successful collection of child support in Alaska and helps Alaskan families. The child support unit handled over 1,600 child support cases.
5. Consumer Protection. As a result of our participation in multistate consumer protection efforts or from consumer protection matters initiated locally, we received civil penalties, attorney's fees and costs in the amount of \$2.3 million.
6. Regulatory Affairs and Public Advocacy. The Department's work in regulatory affairs benefits the state's citizens by ensuring that matters before the Regulatory Commission of Alaska, such as utility rate changes or changes in service practices, conform to the public interest. The approximate value to ratepayers of quantifiable instances of advocacy by the Public Advocate is \$4.0 million. To achieve this result the Department spent about \$1.5 million.
7. Environmental Penalties. The Department collected \$2.3 million in penalties related to violations of state environmental laws. We also obtained cleanup agreements with polluters with an estimated value of \$4.9 million. To obtain these benefits for the state, the Department expended \$1.7 million.
8. Serving the Vulnerable. The Department spends considerable time ensuring that the state's social safety net remains secure. For example, the Department handled over 100 guardianships and approximately 250 mental commitments statewide. The Department also advised agencies in approximately 260 cases related to assisted living homes, foster homes and residential childcare facilities.
9. Regulation of Business. The Department provides legal services to various state agencies that directly protect public health, safety and the environment by prosecuting licensing and discipline cases for many of the

occupational license professions.

B. Fostering the Conditions for Economic Opportunity and Responsible Development and Use of Our Natural Resources

1. Creating Opportunities through Law

- Point Thomson. DNR's decision to default the Point Thomson's unit has resulted in Exxon committing to a \$1.2 billion development plan. Prior to the litigation, Exxon refused to commit to any development. The Department also collected \$21 million in penalties and forced Exxon to relinquish eight leases.
- Alaska Gasline Inducement Act (AGIA). The Department is a key player on the gasline team.
- Endangered Species Act (ESA). The Department has challenged the listing of the polar bear as a threatened species and will intervene in the ribbon seal case. Endangered species listings can have severe impacts on the economy of the area where they are found, and the Department stands poised to ensure the ESA is not used as a tool to lock up Alaska's resources.
- Transportation. Transportation and infrastructure are keys to economic development in Alaska airports, highways, ferries, and public buildings, making commerce and safe travel possible. The Department's work on transportation issues makes growth and improvement in Alaska's infrastructure possible.

2. Supporting Alaskan Businesses and Economic Development

- Kensington. The Department's intervention and appeal work played a key role in defeating legal challenges to federal permits for the operation of the Kensington Mine project preserving hundreds of well-paying jobs in Southeast.
- Outer Continental Shelf (OCS). The Department of Law is engaged in all aspects of the State's OCS strategy, including litigation, legislation, public advocacy and engagement with the federal government. By way of example, the Department successfully prevented the plaintiffs from enjoining offshore seismic surveys in the case of *Native Village of Point Hope v. Minerals Management Service*. Success in allowing such activities to proceed in the OCS, when done the right way, could create thousands of jobs in Alaska and bring billions more dollars into the state's treasury.
- Commercial Fishing. In the *Village of Kasaan v. Alaska Board of Fisheries* case, we successfully defended against a temporary restraining order that would have shut down commercial Dungeness crab fishing in the Ketchikan area, resulting in lost commercial fishing opportunity worth at least \$100,000 to \$200,000.
- Timber Sales. We are participating in negotiations to settle an appeal of the Logjam timber sale in the Tongass National Forest brought by environmentalists. If successful at resolving the matter favorably, we will have helped save 55 jobs.

C. Protecting the Fiscal Integrity of the State

1. Ensuring Payment of Taxes and Royalties. The Department handles a variety of cases relating to the obligations of oil and gas entities in the state to pay taxes and royalties. Settlements or awards from these cases generated more than \$530 million for the state. To obtain these monies the state expended only \$11 million (including the cost of both in-house and outside counsel).
2. Recovery of Monies Owed to the State.
 - Collections. The state benefits from the Department's collections unit and gets a hefty return on its investment. The unit collected over \$14 million. Of that amount, about \$11-\$12 million resulted from garnishment of the debtor's PFD funds that most likely would not have been recovered but for the effort of the collections unit. The collections unit does all of this with only eight employees at a cost to the state of \$687,716.

- Medicaid. The Department also has a significant role in ensuring that limited monies available for Medicaid programs are properly spent. The Department recovered over \$1 million for Medicaid subrogation and estate and trust recovery claims. This work is performed at a cost to the state of one full time attorney.
- Medicaid Fraud. The Department obtained a restitution award of \$1.3 million dollars and a prison sentence of 36 months with 28 months suspended in a case of theft from Medicaid by billing for services not performed. On top of this case, the unit was able to gain convictions in 22 other cases. A total of \$3,895,945 in restitution was awarded during this year through prosecution of Medicaid fraud.

3. Protecting State Investments and Accounts

- Permanent Fund. The Department provides critical legal oversight and advice to the Permanent Fund Corporation.
4. Defending Monetary Claims Against the State. Because the Division of Risk Management is self-insured, the Department vigorously defends the state in tort actions. The cost to the state for all of the work of the section handling these types of cases is only \$3.1 million.

D. **Promoting and Defending Good Governance**

1. Ethics. The Attorney General has responsibility to provide advice to the ethics supervisors for the Office of the Governor, the 14 principal state agencies, the University of Alaska, the 11 public corporations and the more than 75 statutory boards and commissions. In FY 2009, the Department issued 17 written advisory opinions and addressed several hundred oral and email requests for advice from the ethics supervisors, and current and former state officers. To foster a better understanding of the executive branch code of ethics, the state ethics attorney conducted 10 training sessions for the Office of the Governor and some state agencies and boards. The Attorney General also investigates ethics complaints not involving the governor, lieutenant governor or attorney general. In FY 2009, the Department resolved four such matters.
2. Indian Law and Rural Issues. This year has marked a dramatic increase in the number and complexity of requests for the Department's advice on matters of State-tribal interaction. The Department assisted in the negotiation and drafting of Transportation Protocols which were executed by the federal government, some Alaska tribes, and the state. Attorneys assisted in the negotiation, drafting and review of multiple legal opinions and tribal-state agreements regarding child support enforcement, child protection, transportation, human services, commerce, and natural resources. The Department drafted, redrafted and commented on multiple pieces of proposed federal legislation and provided advice to the Governor's office on the merits of these bills, in order to defend the state's sovereign authority over its lands and citizens. A Department of Law attorney helped negotiate with the tribes on the bills' content, testified before the State Legislature in support of Uniform Interstate Family Support Act legislation with tribal implications, provided testimony on amendments to the State's unemployment compensation statutes impacting Alaska tribes and advised the Attorney General in his capacity as co-chair of the Alaska Rural Justice and Law Enforcement Commission and in his position as chair of the Rural Action Subcabinet. The Department provided specific information to the Governor's office on funding which might be available to Alaska tribes in the President's Economic Stimulus Package. Finally, the Department has briefed and argued cases involving jurisdictional issues of first impression before the state and federal courts.
3. Elections and Initiatives. Our office issued four AG opinions to the Lieutenant Governor reviewing initiative applications. The Lieutenant Governor then made his certification decisions based on our legal advice. None of the certifications of initiatives were challenged in court.
4. Legislation. The Department reviewed and legally approved 1,433 pages of state regulations. Without the Department of Law's involvement in the legal review of regulations, these important issues and projects would have greater vulnerability to successful legal challenges.
5. Public Records. In FY 2009, the Department of Law expended over \$500,000 to provide legal review of documents requested under Alaska's public record laws from state agencies. The Department has now developed expertise regarding the State's management of electronically stored and non-electronically stored information. This expertise will assist the State in maintaining the integrity of the information it is legally required to manage and preserve and avoid litigation-related financial losses or adverse court decisions.

E. Results for Alaskans and Rates of Return on Investment

1. Many Departmental Services Cannot Be Monetized. The value provided to the state of many of the services delivered by the Department cannot be monetized: prosecuting sex offenders; terminating an abusive father's parental rights; defending state sovereignty from federal intrusion; tort defense; negotiating contracts for DOT, for example.
2. Monetized Services Demonstrate Significant Benefits to Alaskans. In those areas where we can monetize achievements, the Department provides a significant return on investment (ROI).
 - Department's ROI based on entire budget: 6 to 1.
 - Department's ROI based on general fund monies: 10 to 1.

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Department Budget Summary by RDU

All dollars shown in thousands

| | FY2009 Actuals | | | | FY2010 Management Plan | | | | FY2011 Governor | | | |
|--------------------------------------|-----------------|----------------|-----------------|-----------------|------------------------|----------------|-----------------|-----------------|-----------------|----------------|-----------------|-----------------|
| | General Funds | Federal Funds | Other Funds | Total Funds | General Funds | Federal Funds | Other Funds | Total Funds | General Funds | Federal Funds | Other Funds | Total Funds |
| Formula Expenditures None. | | | | | | | | | | | | |
| Non-Formula Expenditures | | | | | | | | | | | | |
| Criminal Division | 22,810.1 | 2,609.6 | 1,872.1 | 27,291.8 | 23,969.9 | 3,748.9 | 1,809.3 | 29,528.1 | 26,689.5 | 1,463.0 | 2,021.6 | 30,174.1 |
| Civil Division | 25,863.7 | 0.0 | 19,768.3 | 45,632.0 | 26,627.4 | 0.0 | 22,310.3 | 48,937.7 | 28,442.1 | 0.0 | 24,825.9 | 53,268.0 |
| Administration and Support | 2,008.2 | 45.8 | 950.2 | 3,004.2 | 2,178.0 | 132.4 | 1,081.4 | 3,391.8 | 2,198.0 | 132.4 | 1,145.9 | 3,476.3 |
| BP Corrosion | 4,525.4 | 0.0 | 0.0 | 4,525.4 | 3,500.0 | 0.0 | 0.0 | 3,500.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Totals | 55,207.4 | 2,655.4 | 22,590.6 | 80,453.4 | 56,275.3 | 3,881.3 | 25,201.0 | 85,357.6 | 57,329.6 | 1,595.4 | 27,993.4 | 86,918.4 |

Funding Source Summary

All dollars in thousands

| Funding Sources | FY2009 Actuals | FY2010 Management Plan | FY2011 Governor |
|--|-----------------------|---------------------------------------|------------------------|
| 1002 Federal Receipts | 2,655.4 | 3,881.3 | 1,595.4 |
| 1003 General Fund Match | 167.4 | 177.8 | 178.3 |
| 1004 General Fund Receipts | 54,535.5 | 55,374.5 | 56,412.7 |
| 1005 General Fund/Program Receipts | 504.5 | 638.5 | 652.6 |
| 1007 Inter-Agency Receipts | 18,399.7 | 20,711.0 | 21,165.0 |
| 1037 General Fund / Mental Health | | 84.5 | 86.0 |
| 1055 Inter-agency/Oil & Hazardous Waste | 512.2 | 548.6 | 554.4 |
| 1061 Capital Improvement Project Receipts | 237.9 | 104.1 | 106.2 |
| 1092 Mental Health Trust Authority Authorized Receipts | | 12.5 | |
| 1105 Alaska Permanent Fund Corporation Receipts | 1,477.0 | 1,477.6 | 1,477.6 |
| 1108 Statutory Designated Program Receipts | 630.3 | 644.9 | 646.7 |
| 1141 RCA Receipts | 1,333.5 | 1,537.3 | 1,543.5 |
| 1168 Tobacco Use Education and Cessation Fund | | 165.0 | |
| 1213 Alaska Housing Capital Corporation Receipts | | | 2,500.0 |
| Totals | 80,453.4 | 85,357.6 | 86,918.4 |

Position Summary

| Funding Sources | FY2010 Management Plan | FY2011 Governor |
|------------------------|---------------------------------------|------------------------|
| Permanent Full Time | 553 | 555 |
| Permanent Part Time | 7 | 6 |
| Non Permanent | 0 | 0 |
| Totals | 560 | 561 |

FY2011 Capital Budget Request

| Project Title | General Funds | Federal Funds | Other Funds | Total Funds |
|--|--------------------------|--------------------------|------------------------|------------------------|
| Fairbanks and Anchorage Key Card Office Access | 150,000 | 0 | 0 | 150,000 |
| Department Total | 150,000 | 0 | 0 | 150,000 |

This is an appropriation level summary only. For allocations and the full project details see the capital budget.

Summary of Department Budget Changes by RDU

From FY2010 Management Plan to FY2011 Governor

All dollars shown in thousands

| | <u>General Funds</u> | <u>Federal Funds</u> | <u>Other Funds</u> | <u>Total Funds</u> |
|--|----------------------|----------------------|--------------------|--------------------|
| FY2010 Management Plan | 56,275.3 | 3,881.3 | 25,201.0 | 85,357.6 |
| Adjustments which will continue current level of service: | | | | |
| -Criminal Division | 2,519.6 | -2,285.9 | 7.3 | 241.0 |
| -Civil Division | -10,385.3 | 0.0 | 3.6 | -10,381.7 |
| -Administration and Support | 8.0 | 0.0 | 2.5 | 10.5 |
| Proposed budget increases: | | | | |
| -Criminal Division | 200.0 | 0.0 | 205.0 | 405.0 |
| -Civil Division | 8,700.0 | 0.0 | 2,512.0 | 11,212.0 |
| -Administration and Support | 12.0 | 0.0 | 62.0 | 74.0 |
| FY2011 Governor | 57,329.6 | 1,595.4 | 27,993.4 | 86,918.4 |

Department Totals - Operating Budget
Department of Law

| Description | FY2009 Actuals | FY2010 Conference Committee | FY2010 Authorized | FY2010 Management Plan | FY2011 Governor | FY2010 Management Plan vs FY2011 Governor | |
|--------------------------------|----------------|-----------------------------|-------------------|------------------------|-----------------|---|---------|
| Department Totals | 80,453.4 | 84,382.5 | 85,357.6 | 85,357.6 | 86,918.4 | 1,560.8 | 1.8% |
| Objects of Expenditure: | | | | | | | |
| 71000 Personal Services | 50,074.9 | 57,036.7 | 57,036.7 | 57,036.7 | 58,391.1 | 1,354.4 | 2.4% |
| 72000 Travel | 1,669.9 | 1,231.4 | 1,231.4 | 1,231.4 | 1,246.4 | 15.0 | |
| 73000 Services | 26,808.1 | 24,712.3 | 25,687.4 | 25,687.4 | 25,853.8 | 166.4 | 0.6% |
| 74000 Commodities | 1,515.0 | 1,029.1 | 1,029.1 | 1,029.1 | 1,042.1 | 13.0 | 1.3% |
| 75000 Capital Outlay | 385.5 | 373.0 | 373.0 | 373.0 | 385.0 | 12.0 | 3.2% |
| 77000 Grants, Benefits | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0% |
| 78000 Miscellaneous | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0% |
| Funding Source: | | | | | | | |
| 1002 Fed Rcpts | 2,655.4 | 3,880.3 | 3,881.3 | 3,881.3 | 1,595.4 | -2,285.9 | -58.9% |
| 1003 G/F Match | 167.4 | 177.8 | 177.8 | 177.8 | 178.3 | 0.5 | 0.3% |
| 1004 Gen Fund | 54,535.5 | 54,408.3 | 55,374.5 | 55,374.5 | 56,412.7 | 1,038.2 | 1.9% |
| 1005 GF/Prgm | 504.5 | 638.5 | 638.5 | 638.5 | 652.6 | 14.1 | 2.2% |
| 1007 I/A Rcpts | 18,399.7 | 20,704.4 | 20,711.0 | 20,711.0 | 21,165.0 | 454.0 | 2.2% |
| 1037 GF/MH | 0.0 | 84.5 | 84.5 | 84.5 | 86.0 | 1.5 | 1.8% |
| 1055 IA/OIL HAZ | 512.2 | 548.6 | 548.6 | 548.6 | 554.4 | 5.8 | 1.1% |
| 1061 CIP Rcpts | 237.9 | 104.1 | 104.1 | 104.1 | 106.2 | 2.1 | 2.0% |
| 1092 MHTAAR | 0.0 | 12.5 | 12.5 | 12.5 | 0.0 | -12.5 | -100.0% |
| 1105 PFund Rcpt | 1,477.0 | 1,477.0 | 1,477.6 | 1,477.6 | 1,477.6 | 0.0 | 0.0% |
| 1108 Stat Desig | 630.3 | 644.7 | 644.9 | 644.9 | 646.7 | 1.8 | 0.3% |
| 1141 RCA Rcpts | 1,333.5 | 1,536.8 | 1,537.3 | 1,537.3 | 1,543.5 | 6.2 | 0.4% |
| 1168 Tob Ed/Ces | 0.0 | 165.0 | 165.0 | 165.0 | 0.0 | -165.0 | -100.0% |
| 1213 AHCC Rcpts | 0.0 | 0.0 | 0.0 | 0.0 | 2,500.0 | 2,500.0 | 100.0% |
| Totals: | | | | | | | |
| General Funds | 55,207.4 | 55,309.1 | 56,275.3 | 56,275.3 | 57,329.6 | 1,054.3 | 1.9% |
| Federal Funds | 2,655.4 | 3,880.3 | 3,881.3 | 3,881.3 | 1,595.4 | -2,285.9 | -58.9% |
| Other Funds | 22,590.6 | 25,193.1 | 25,201.0 | 25,201.0 | 27,993.4 | 2,792.4 | 11.1% |
| Positions: | | | | | | | |
| Permanent Full Time | 552 | 552 | 552 | 553 | 555 | 2 | 0.4% |
| Permanent Part Time | 6 | 7 | 7 | 7 | 6 | -1 | -14.3% |
| Non Permanent | 0 | 0 | 0 | 0 | 0 | 0 | 0.0% |

Component Summary General Funds Only

Department of Law

| Results Delivery Unit/ Component | FY2009 Actuals | FY2010 Conference Committee | FY2010 Authorized | FY2010 Management Plan | FY2011 Governor | FY2010 Management Plan vs FY2011 Governor | |
|-----------------------------------|-----------------|-----------------------------|-------------------|------------------------|-----------------|---|----------------|
| Criminal Division | | | | | | | |
| First Judicial District | 1,687.7 | 1,713.0 | 1,713.0 | 1,713.0 | 1,726.6 | 13.6 | 0.8% |
| Second Judicial District | 1,241.8 | 1,511.5 | 1,511.5 | 1,511.5 | 1,535.1 | 23.6 | 1.6% |
| Third Judicial: Anchorage | 6,175.1 | 6,662.5 | 6,662.5 | 6,662.5 | 7,113.1 | 450.6 | 6.8% |
| Third JD: Outside Anchorage | 4,196.2 | 4,207.4 | 4,207.4 | 4,207.4 | 4,700.4 | 493.0 | 11.7% |
| Fourth Judicial District | 4,389.0 | 4,899.1 | 4,899.1 | 4,899.1 | 5,234.0 | 334.9 | 6.8% |
| Criminal Justice Litigation | 1,934.0 | 1,911.1 | 1,911.1 | 1,911.1 | 2,163.0 | 251.9 | 13.2% |
| Criminal Appeals/Special Lit | 3,186.3 | 3,065.3 | 3,065.3 | 3,065.3 | 4,217.3 | 1,152.0 | 37.6% |
| RDU Totals: | 22,810.1 | 23,969.9 | 23,969.9 | 23,969.9 | 26,689.5 | 2,719.6 | 11.3% |
| Civil Division | | | | | | | |
| Dep. Attny General's Office | 4,153.0 | 708.0 | 708.0 | 708.0 | 710.1 | 2.1 | 0.3% |
| Child Protection | 0.0 | 0.0 | 0.0 | 0.0 | 4,384.0 | 4,384.0 | 100.0% |
| Collections and Support | 521.3 | 938.0 | 938.0 | 938.0 | 945.3 | 7.3 | 0.8% |
| Commercial and Fair Business | 1,239.4 | 1,431.3 | 1,431.3 | 1,431.3 | 1,309.7 | -121.6 | -8.5% |
| Environmental Law | 501.3 | 1,087.9 | 1,087.9 | 1,087.9 | 1,098.3 | 10.4 | 1.0% |
| Human Services | 0.0 | 0.0 | 0.0 | 0.0 | 1,018.0 | 1,018.0 | 100.0% |
| Human Services/Child Protection | 5,335.4 | 5,153.2 | 5,153.2 | 5,153.2 | 0.0 | -5,153.2 | -100.0% |
| Labor and State Affairs | 2,684.4 | 2,446.7 | 2,446.7 | 2,446.7 | 2,424.6 | -22.1 | -0.9% |
| Legislation/Regulations | 565.7 | 625.7 | 625.7 | 625.7 | 659.0 | 33.3 | 5.3% |
| Natural Resources | 1,558.2 | 937.3 | 937.3 | 937.3 | 3,025.4 | 2,088.1 | 222.8% |
| BP Corrosion | 0.0 | 0.0 | 0.0 | 0.0 | 4,000.0 | 4,000.0 | 100.0% |
| Oil, Gas and Mining | 7,869.3 | 9,552.4 | 9,552.4 | 9,552.4 | 7,111.2 | -2,441.2 | -25.6% |
| Opinions, Appeals and Ethics | 299.5 | 1,322.3 | 1,322.3 | 1,322.3 | 1,362.8 | 40.5 | 3.1% |
| Statehood Defense | 904.5 | 1,066.8 | 2,033.0 | 2,033.0 | 0.0 | -2,033.0 | -100.0% |
| Timekeeping & Litigation Support | 229.8 | 305.6 | 305.6 | 305.6 | 307.7 | 2.1 | 0.7% |
| Torts and Workers' Compensation | 0.4 | 47.1 | 47.1 | 47.1 | 47.1 | 0.0 | 0.0% |
| Transportation Section | 1.5 | 38.9 | 38.9 | 38.9 | 38.9 | 0.0 | 0.0% |
| RDU Totals: | 25,863.7 | 25,661.2 | 26,627.4 | 26,627.4 | 28,442.1 | 1,814.7 | 6.8% |
| Administration and Support | | | | | | | |
| Office of the Attorney General | 439.7 | 644.7 | 644.7 | 644.7 | 651.1 | 6.4 | 1.0% |
| Administrative Services | 1,081.5 | 1,046.3 | 1,046.3 | 1,046.3 | 1,059.9 | 13.6 | 1.3% |
| Dimond Courthouse PBF | 487.0 | 487.0 | 487.0 | 487.0 | 487.0 | 0.0 | 0.0% |
| RDU Totals: | 2,008.2 | 2,178.0 | 2,178.0 | 2,178.0 | 2,198.0 | 20.0 | 0.9% |
| BP Corrosion | | | | | | | |
| BP Corrosion | 4,525.4 | 3,500.0 | 3,500.0 | 3,500.0 | 0.0 | -3,500.0 | -100.0% |
| RDU Totals: | 4,525.4 | 3,500.0 | 3,500.0 | 3,500.0 | 0.0 | -3,500.0 | -100.0% |
| General Funds: | 55,207.4 | 55,309.1 | 56,275.3 | 56,275.3 | 57,329.6 | 1,054.3 | 1.9% |
| Federal Funds: | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0% |
| Other Funds: | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0% |
| Total Funds: | 55,207.4 | 55,309.1 | 56,275.3 | 56,275.3 | 57,329.6 | 1,054.3 | 1.9% |

Component Summary All Funds

Department of Law

| Results Delivery Unit/ Component | FY2009 Actuals | FY2010 Conference Committee | FY2010 Authorized | FY2010 Management Plan | FY2011 Governor | FY2010 Management Plan vs FY2011 Governor | |
|-----------------------------------|-----------------|-----------------------------|-------------------|------------------------|-----------------|---|----------------|
| Criminal Division | | | | | | | |
| First Judicial District | 1,714.3 | 1,887.7 | 1,887.7 | 1,887.7 | 1,902.6 | 14.9 | 0.8% |
| Second Judicial District | 1,392.7 | 1,718.9 | 1,718.9 | 1,718.9 | 1,562.4 | -156.5 | -9.1% |
| Third Judicial: Anchorage | 6,544.1 | 7,223.6 | 7,223.6 | 7,223.6 | 7,344.6 | 121.0 | 1.7% |
| Third JD: Outside Anchorage | 4,722.5 | 5,006.4 | 5,006.4 | 5,006.4 | 5,050.0 | 43.6 | 0.9% |
| Fourth Judicial District | 4,723.3 | 5,447.4 | 5,447.4 | 5,447.4 | 5,521.0 | 73.6 | 1.4% |
| Criminal Justice Litigation | 2,767.1 | 2,330.8 | 2,330.8 | 2,330.8 | 2,750.1 | 419.3 | 18.0% |
| Criminal Appeals/Special Lit | 5,427.8 | 5,912.3 | 5,913.3 | 5,913.3 | 6,043.4 | 130.1 | 2.2% |
| RDU Totals: | 27,291.8 | 29,527.1 | 29,528.1 | 29,528.1 | 30,174.1 | 646.0 | 2.2% |
| Civil Division | | | | | | | |
| Dep. Attny General's Office | 4,318.4 | 907.4 | 914.0 | 914.0 | 916.1 | 2.1 | 0.2% |
| Child Protection | 0.0 | 0.0 | 0.0 | 0.0 | 5,219.0 | 5,219.0 | 100.0% |
| Collections and Support | 2,063.4 | 2,683.7 | 2,683.7 | 2,683.7 | 2,708.6 | 24.9 | 0.9% |
| Commercial and Fair Business | 4,059.9 | 4,899.4 | 4,899.6 | 4,806.3 | 4,660.2 | -146.1 | -3.0% |
| Environmental Law | 2,089.6 | 2,097.9 | 2,097.9 | 2,097.9 | 2,118.7 | 20.8 | 1.0% |
| Human Services | 0.0 | 0.0 | 0.0 | 0.0 | 1,701.0 | 1,701.0 | 100.0% |
| Human Services/Child Protection | 7,372.4 | 6,655.2 | 6,655.2 | 6,655.2 | 0.0 | -6,655.2 | -100.0% |
| Labor and State Affairs | 5,181.4 | 5,811.3 | 5,811.3 | 5,811.3 | 5,813.6 | 2.3 | 0.0% |
| Legislation/Regulations | 744.3 | 818.6 | 818.6 | 818.6 | 854.0 | 35.4 | 4.3% |
| Natural Resources | 1,992.4 | 1,300.3 | 1,300.3 | 1,300.3 | 3,282.7 | 1,982.4 | 152.5% |
| BP Corrosion | 0.0 | 0.0 | 0.0 | 0.0 | 4,000.0 | 4,000.0 | 100.0% |
| Oil, Gas and Mining | 9,476.2 | 11,029.4 | 11,030.0 | 11,030.0 | 11,088.8 | 58.8 | 0.5% |
| Opinions, Appeals and Ethics | 349.5 | 1,780.9 | 1,780.9 | 1,780.9 | 1,824.5 | 43.6 | 2.4% |
| Reg Affairs Public Advocacy | 1,333.5 | 1,536.8 | 1,537.3 | 1,537.3 | 1,543.5 | 6.2 | 0.4% |
| Statehood Defense | 904.5 | 1,066.8 | 2,033.0 | 2,033.0 | 0.0 | -2,033.0 | -100.0% |
| Timekeeping & Litigation Support | 950.5 | 1,595.0 | 1,595.0 | 1,688.3 | 1,706.5 | 18.2 | 1.1% |
| Torts and Workers' Compensation | 3,100.0 | 3,373.0 | 3,373.0 | 3,373.0 | 3,462.2 | 89.2 | 2.6% |
| Transportation Section | 1,696.0 | 2,407.9 | 2,407.9 | 2,407.9 | 2,368.6 | -39.3 | -1.6% |
| RDU Totals: | 45,632.0 | 47,963.6 | 48,937.7 | 48,937.7 | 53,268.0 | 4,330.3 | 8.8% |
| Administration and Support | | | | | | | |
| Office of the Attorney General | 439.7 | 644.7 | 644.7 | 644.7 | 651.1 | 6.4 | 1.0% |
| Administrative Services | 2,077.5 | 2,260.1 | 2,260.1 | 2,260.1 | 2,338.2 | 78.1 | 3.5% |
| Dimond Courthouse PBF | 487.0 | 487.0 | 487.0 | 487.0 | 487.0 | 0.0 | 0.0% |
| RDU Totals: | 3,004.2 | 3,391.8 | 3,391.8 | 3,391.8 | 3,476.3 | 84.5 | 2.5% |
| BP Corrosion | | | | | | | |
| BP Corrosion | 4,525.4 | 3,500.0 | 3,500.0 | 3,500.0 | 0.0 | -3,500.0 | -100.0% |
| RDU Totals: | 4,525.4 | 3,500.0 | 3,500.0 | 3,500.0 | 0.0 | -3,500.0 | -100.0% |
| General Funds: | 55,207.4 | 55,309.1 | 56,275.3 | 56,275.3 | 57,329.6 | 1,054.3 | 1.9% |
| Federal Funds: | 2,655.4 | 3,880.3 | 3,881.3 | 3,881.3 | 1,595.4 | -2,285.9 | -58.9% |
| Other Funds: | 22,590.6 | 25,193.1 | 25,201.0 | 25,201.0 | 27,993.4 | 2,792.4 | 11.1% |
| Total Funds: | 80,453.4 | 84,382.5 | 85,357.6 | 85,357.6 | 86,918.4 | 1,560.8 | 1.8% |

Component Summary All Funds
Department of Law

| Results Delivery Unit/ Component | FY2009 Actuals | FY2010 Conference Committee | FY2010 Authorized | FY2010 Management Plan | FY2011 Governor | FY2010 Management Plan vs FY2011 Governor | |
|----------------------------------|----------------|-----------------------------|-------------------|------------------------|-----------------|---|--------|
| Permanent Full Time: | 552 | 552 | 552 | 553 | 555 | 2 | 0.4% |
| Permanent Part Time: | 6 | 7 | 7 | 7 | 6 | -1 | -14.3% |
| Non Permanent: | 0 | 0 | 0 | 0 | 0 | 0 | 0.0% |
| Total Positions: | 558 | 559 | 559 | 560 | 561 | 1 | 0.2% |